

Assembly Bill No. 2367

Passed the Assembly August 14, 2006

Chief Clerk of the Assembly

Passed the Senate August 10, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 25618 of the Business and Professions Code, to amend Sections 3510, 17419, and 17700 of the Financial Code, to amend Section 80174 of the Food and Agricultural Code, to amend Sections 1368, 3108, and 51018.7 of the Government Code, to amend Sections 25180.7, 44209, 100895, and 116730 of the Health and Safety Code, to amend Sections 145 and 1672 of the Military and Veterans Code, to amend Section 8285 of the Public Utilities Code, to amend Sections 7093.6, 9278, 18631.7, 19542.3, 43606, 45955, 46705, and 50156.18 of the Revenue and Taxation Code, and to amend Section 13387 of the Water Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2367, La Suer. Criminal penalties.

Existing law generally provides that a criminal offender shall, upon conviction, be subject to a determinate sentence, as specified. However, specified offenses relating to alcoholic beverage control, the price fixing of commodities, escrow agents, California desert native plants, oath or affirmations required of public officers and employees, the Elder California Pipeline Safety Act of 1981, hazardous waste, vehicular air pollution control of used direct import vehicles, environmental laboratories, drinking water, military and veterans, public utilities, revenue and taxation, and water pollution provide for indeterminate sentences instead.

This bill would revise the above provisions providing for indeterminate sentences to make those sentences determinate, and, in some instances, explicitly providing that they are also punishable by imprisonment in a county jail, as specified. Because the provisions relating to hazardous waste were added by an initiative statute that may only be amended by the Legislature by a 2/3 vote, the bill would require that vote for enactment.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by

the state. Statutory provisions establish procedures for making that reimbursement.

The people of the State of California do enact as follows:

SECTION 1. Section 25618 of the Business and Professions Code is amended to read:

25618. Every person convicted of a felony for a violation of any of the provisions of this division for which another punishment is not specifically provided for in this division shall be punished by a fine of not more than ten thousand dollars (\$10,000), imprisonment in a county jail for not more than one year, imprisonment in the state prison, or by both that fine and imprisonment.

SEC. 2. Section 3510 of the Financial Code is amended to read:

3510. It shall be unlawful for any director, officer, agent, or employee of any corporation to use or to conspire to use the credit, the funds, or the power of the corporation to fix or control the price of any commodities, and any person violating this section shall be punished by a fine of not less than two thousand dollars (\$2,000) nor more than ten thousand dollars (\$10,000), imprisonment in a county jail for not more than one year, imprisonment in the state prison, or by both that fine and imprisonment, in the discretion of the court.

SEC. 3. Section 17419 of the Financial Code is amended to read:

17419. On and after January 1, 1992, any person seeking employment with an escrow agent shall complete an employment application on or before the first day of employment which includes, at least, the following information. A copy of the employment application shall be forwarded to the commissioner on or before the first day of the applicant's employment. Persons required to file a statement of identity and questionnaire pursuant to subdivision (f) of Section 17209 or Section 17212.1 are not required to file the employment application set forth in this section. Each person completing the employment application shall be given the notice required by the Information Practices Act (Section 1798.17 of the Civil Code), copies of which may be obtained from the commissioner. Nothing in this section shall

limit an escrow agent from requesting additional information from an applicant.

STATEMENT OF IDENTITY
AND EMPLOYMENT APPLICATION

Name of Escrow Company: _____

Escrow Agent License Number: _____

1. Exact Full Name:

(Please print or type) First Name Middle Name Last Name

(Do not use initials or nicknames)

Title of position to be filled in connection with the preparation of this employment application.

2. Employment for the last 10 years:

From	To	Employer Name and Address	Occupation and Duties
	Present		

Note: Attach separate schedule if space is not adequate.

3. Residence addresses for the last 10 years:

From	To	Street	City	State
	Present			

Note: Attach separate schedule if space is not adequate.

4. Have you ever been named in any order, judgment or decree of any court or any governmental agency or administrator, temporarily, or permanently restraining or enjoining you from engaging in or continuing any conduct, practice or employment?

☐ Yes

☐ No

If the answer is "Yes," please complete the following:

Date of Suit: _____

Location of Court (City, County, State): _____

Nature of Suit: _____

Note: Attach a certified copy of any order, judgment, or decree.

5. Have you ever been refused a license to engage in any business in this state or any other state, or had any such license suspended or revoked?

☐ Yes

☐ No

If the answer is "Yes," please complete the following:

State: _____ Title of State Department: _____

Nature of License and Number: _____

Note: Attach a certified copy of any order, judgment, or decree.

6. Have you ever been convicted of or pleaded nolo contendere to a crime other than minor traffic citations that do not constitute a misdemeanor or felony offense?

Note: "Convicted" includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere or a forfeiture of bail. All convictions must be disclosed even if the plea or verdict was thereafter set aside and the charges against you dismissed or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under Section 1203.45 of the California Penal Code or Section 781 of the California Welfare and Institutions Code.

☐ Yes

☐ No

If the answer is "Yes," please complete the following:

Date of Case: _____

Location of Court (City, County, State): _____

Nature of Case: _____

Note: Attach a certified copy of any order, judgment, or decree.

7. Have you ever been a defendant in a civil court action other than divorce, condemnation, or personal injury?

☐ Yes ☐ No

If the answer is "Yes," please complete the following:

Date of Suit: _____

Location of Court (City, County, State): _____

Nature of Suit: _____

Note: Attach a certified copy of any order, judgment, or decree.

8. Have you ever changed your name or ever been known by any name other than that herein listed?

(Including a woman's maiden name)

☐ Yes ☐ No

If so, explain. Change in name through marriage or court order should also be listed.

EXACT DATE OF EACH NAME CHANGE MUST BE LISTED.

9. Have you ever done business under a fictitious firm name either as an individual or in the partnership or corporate form?

☐ Yes ☐ No

If the answer is "Yes," set forth particulars:

10. Have you ever been a subject of a bankruptcy or a petition in bankruptcy?

☐ Yes ☐ No

If the answer is "Yes," give date, title of case, location of bankruptcy filing:

11. Have you ever been refused a bond, or have you ever had a bond revoked or canceled?

☐ Yes

☐ No

If the answer is "Yes," give details:

12. In what capacity will you be employed? _____
(e.g., Clerk, Escrow Officer, Receptionist, etc.)

13. Do you expect to be a party to, or broker or salesperson in connection with escrows conducted by the escrow company which is employing you?

☐ Yes

☐ No

If the answer is "Yes," please explain:

Note: Attach separate schedule if space is not adequate.

VERIFICATION

I, the undersigned, state that I am the person named in the foregoing Statement of Identity and Employment Application; that I have read and signed said Statement of Identity and Employment Application and know the contents thereof, including all exhibits attached thereto, and that the statements made therein, including any exhibits attached thereto, are true. Any person who knows or should have known of a violation of this section shall immediately report the violation in writing to the commissioner.

I certify/declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at _____
(City)

(County) (State)
this _____ day of _____, 20 ____.

(Signature of Declarant)

SEC. 4. Section 17700 of the Financial Code is amended to read:

17700. Any person who willfully violates any provision of this division, or who willfully violates any rule or order under this division, shall, upon conviction, be fined not more than ten thousand dollars (\$10,000), imprisoned in a county jail for not more than one year, imprisoned in the state prison, or be punished by both that fine and imprisonment, but no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority provided in Section 17423.

SEC. 5. Section 80174 of the Food and Agricultural Code is amended to read:

80174. A second conviction shall be punishable by a fine of not less than three hundred dollars (\$300), nor more than five thousand dollars (\$5,000), for each violation, by imprisonment in a county jail for not more than one year, by imprisonment in the state prison, or by both that fine and imprisonment, and each violation shall constitute a separate offense.

Upon the second conviction, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be issued to the permittee at any time in the future from the date of conviction.

SEC. 6. Section 1368 of the Government Code is amended to read:

1368. Every person who, while taking and subscribing to the oath or affirmation required by this chapter, states as true any material matter which he or she knows to be false, is guilty of perjury, and is punishable by imprisonment in the state prison for two, three, or four years.

SEC. 7. Section 3108 of the Government Code is amended to read:

3108. Every person who, while taking and subscribing to the oath or affirmation required by this chapter, states as true any material matter which he or she knows to be false, is guilty of perjury, and is punishable by imprisonment in the state prison for two, three, or four years.

SEC. 8. Section 51018.7 of the Government Code is amended to read:

51018.7. (a) Any person who willfully and knowingly violates any provision of this chapter or a regulation issued pursuant thereto shall, upon conviction, be subject, for each offense, to a fine of not more than twenty-five thousand dollars (\$25,000), imprisonment in a county jail for not more than one year, imprisonment in the state prison, or by both that fine and imprisonment.

(b) Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by federal or state law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than five thousand dollars (\$5,000), imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

SEC. 8.5. Section 25180.7 of the Health and Safety Code is amended to read:

25180.7. (a) Within the meaning of this section, a “designated government employee” is any person defined as a “designated employee” by Government Code Section 82019, as amended.

(b) Any designated government employee who obtains information in the course of his or her official duties revealing the illegal discharge or threatened illegal discharge of a hazardous waste within the geographical area of his or her jurisdiction and who knows that the discharge or threatened discharge is likely to cause substantial injury to the public health or safety must, within 72 hours, disclose that information to the local Board of Supervisors and to the local health officer. No disclosure of information is required under this subdivision when otherwise prohibited by law, or when law enforcement personnel have determined that this disclosure would adversely affect an ongoing criminal investigation, or when the information is already general public knowledge within the locality affected by the discharge or threatened discharge.

(c) Any designated government employee who knowingly and intentionally fails to disclose information required to be disclosed under subdivision (b) shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by

imprisonment in the state prison. The court may also impose upon the person a fine of not less than five thousand dollars (\$5000) or more than twenty-five thousand dollars (\$25,000). The felony conviction for violation of this section shall require forfeiture of government employment within thirty days of conviction.

(d) Any local health officer who receives information pursuant to subdivision (b) shall take appropriate action to notify local news media and shall make that information available to the public without delay.

SEC. 9. Section 44209 of the Health and Safety Code is amended to read:

44209. Any person who falsifies any test record or report which has been submitted to any other person, the department, or the state board pursuant to this chapter is subject to punishment by a fine of not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000), imprisonment in a county jail for not more than one year, imprisonment in the state prison, or by both that fine and imprisonment.

SEC. 10. Section 100895 of the Health and Safety Code is amended to read:

100895. (a) Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000) for each day of violation, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment:

(1) Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this article.

(2) Has in his or her possession any record required to be maintained pursuant to this article that has been altered or concealed.

(3) Destroys, alters, or conceals any record required to be maintained pursuant to this article.

(4) Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to this article.

(b) A second or subsequent violation of subdivision (a) is punishable by imprisonment in the state prison for 16, 20, or 24 months or in a county jail for not more than one year, by a fine of not less than two thousand dollars (\$2,000) or more than fifty thousand dollars (\$50,000) per day of violation, or by both that imprisonment and fine.

(c) An ELAP certified or NELAP accredited laboratory, upon suspension, revocation, or withdrawal of its ELAP certification or NELAP accreditation, shall do all of the following:

(1) Discontinue use of all catalogs, advertising, business solicitations, proposals, quotations, or their materials that contain reference to their past certification or accreditation status.

(2) Return its ELAP certificate or its NELAP accreditation to the department.

(3) Cease all testing of samples for regulatory purposes.

(d) The penalties cited in subdivisions (a) and (b) shall also apply to NELAP accredited laboratories.

SEC. 11. Section 116730 of the Health and Safety Code is amended to read:

116730. (a) Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000) for each day of violation, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment:

(1) Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record required to be maintained pursuant to this chapter that has been altered or concealed.

(3) Destroys, alters, or conceals any record required to be maintained pursuant to this chapter.

(4) Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to this chapter in response to an imminent and substantial danger.

(5) Violates an order issued by the department pursuant to this chapter that has a substantial probability of presenting an imminent danger to the health of persons.

(6) Operates a public water system without a permit issued by the department pursuant to this chapter.

(b) A second or subsequent violation of subdivision (a) is punishable by imprisonment in the state prison for 16, 20, or 24 months or imprisonment in a county jail for not more than one year, by a fine of not less than two thousand dollars (\$2,000) or more than fifty thousand dollars (\$50,000) per day of violation, or by both that imprisonment and fine.

SEC. 12. Section 145 of the Military and Veterans Code is amended to read:

145. A person who, after publication of the proclamation authorized by Section 143, joins, participates or takes any part in a rebellion, insurrection, tumult or riot, or who is party to any conspiracy or combination to resist by force the execution of the laws or who resists or aids in resisting the execution of process in any county or city declared to be in a state of insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting any force ordered out by the Governor to quell or suppress an insurrection, is punishable by a fine of not less than one thousand dollars (\$1,000), or by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by both that fine and imprisonment.

SEC. 13. Section 1672 of the Military and Veterans Code is amended to read:

1672. Any person who is guilty of violating Section 1670 or 1671 is punishable as follows:

(a) If the act or failure to act causes the death of any person, a person violating this section is punishable by death or imprisonment in the state prison for life without possibility of parole. The penalty shall be determined pursuant to the provisions of Sections 190.3 and 190.4 of the Penal Code. If the act or failure to act causes great bodily injury to any person, a person violating this section is punishable by life imprisonment without possibility of parole.

(b) If the act or failure to act does not cause the death of, or great bodily injury to, any person, the person violating this

section is punishable by imprisonment in the state prison for two, four, or six years, by a fine of not more than ten thousand dollars (\$10,000), or by both that imprisonment and fine. However, if a person so acts or so fails to act with the intent to hinder, delay, or interfere with the preparation of the United States or of any state for defense or for war, or with the prosecution of war by the United States, or with the rendering of assistance by the United States to any other nation in connection with that nation's defense, the person is punishable by a fine of not more than ten thousand dollars (\$10,000), imprisonment in the state prison for three, five, or seven years, or by both that fine and imprisonment.

SEC. 14. Section 8285 of the Public Utilities Code is amended to read:

8285. Any person or corporation, through its directors, officers, or agents, which falsely represents a business as a women, minority, or disabled veteran business enterprise in the procurement of, or attempt to procure, contracts from an electrical, gas, or telephone corporation with gross annual revenues exceeding twenty-five million dollars (\$25,000,000), or a commission-regulated subsidiary or affiliate subject to this article, shall be punished by a fine of not more than five thousand dollars (\$5,000), by imprisonment in a county jail for not more than one year or in the state prison, or by both that fine and imprisonment. In the case of a corporation, the fine or imprisonment, or both, shall be imposed on every director, officer, or agent responsible for the false statements.

SEC. 15. Section 7093.6 of the Revenue and Taxation Code is amended to read:

7093.6. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars (\$7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars (\$7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).

(b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer’s present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(g) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

- (1) The name of the taxpayer.
- (2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
- (3) The amount offered.
- (4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 7056. No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.

(k) For purposes of this section, “person” means the taxpayer, any member of the taxpayer’s family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

SEC. 16. Section 9278 of the Revenue and Taxation Code is amended to read:

9278. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars (\$7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars (\$7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).

(b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 3 (commencing with Section 8601), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer’s present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(g) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

- (1) The name of the taxpayer.
- (2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
- (3) The amount offered.
- (4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 9255. No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned in

the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.

(k) For purposes of this section, “person” means the taxpayer, any member of the taxpayer’s family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

SEC. 17. Section 18631.7 of the Revenue and Taxation Code is amended to read:

18631.7. (a) Any check casher engaged in the trade or business of cashing checks that, in the course of that trade or business, cashes checks totaling more than ten thousand dollars (\$10,000) in one transaction or two or more transactions for the same person within the calendar year, shall file an informational return with the Franchise Tax Board with respect to that transaction or transactions.

(b) The return required in subdivision (a) shall be filed no later than 90 days after the end of the calendar year and in the form and manner prescribed by the Franchise Tax Board, and shall, at a minimum, contain both of the following:

(1) The name, address, taxpayer identification number, and any other identifying information of the person presenting the check that the Franchise Tax Board deems necessary.

(2) The amount and date of the transaction or transactions.

(c) For purposes of this section both of the following definitions apply:

(1) “Check casher” means any person as defined under Section 1789.31 of the Civil Code.

(2) “Checks” includes warrants, drafts, money orders, and other commercial paper serving the same purpose.

(d) With respect to a person who fails to file the report required by this section or fails to include all of the information required to be shown on that report, both of the following apply:

(1) Sections 6721 and 6724 of the Internal Revenue Code, as those sections read on January 1, 2005, apply, except that the “Franchise Tax Board” is substituted for the “secretary” in each place it appears in those sections.

(2) If the failure was willful, the person, upon conviction, shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000) or, in the case of a corporation, not more than one hundred thousand dollars (\$100,000), by imprisonment in a county jail for not more than one year, by imprisonment in the state prison, or by both that fine and imprisonment, together with the costs of prosecution.

SEC. 18. Section 19542.3 of the Revenue and Taxation Code is amended to read:

19542.3. Any person who willfully divulges or makes known software, as defined in paragraph (1) of subdivision (d) of Section 19504.5, to any person in violation of Section 19504.5 is punishable by imprisonment in a county jail for not more than one year, or in the state prison, at the discretion of the court, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment, at the discretion of the court, together with the costs of investigation and prosecution.

SEC. 19. Section 43606 of the Revenue and Taxation Code is amended to read:

43606. Every person convicted of a felony for a violation of any of the provisions of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars (\$5,000), by imprisonment in the state prison, or by both that fine and imprisonment.

SEC. 20. Section 45955 of the Revenue and Taxation Code is amended to read:

45955. Every person convicted of a felony for a violation of any provision of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars (\$5,000), by imprisonment in the state prison, or by both that fine and imprisonment.

SEC. 21. Section 46705 of the Revenue and Taxation Code is amended to read:

46705. Every person convicted of a felony for a violation of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars (\$5,000), by imprisonment in the state prison, or by both that fine and imprisonment in the discretion of the court, together with the cost of investigation and prosecution.

SEC. 22. Section 50156.18 of the Revenue and Taxation Code is amended to read:

50156.18. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final fee liability in which the reduction of the fee is seven thousand five hundred dollars (\$7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in the fee in excess of seven thousand five hundred dollars (\$7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of the fee is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).

(b) For purposes of this section, “a final fee liability” means any final fee liability arising under Part 26 (commencing with Section 50101), or related interest, additions to the fee, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The feepayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the feepayer's present assets or income.

(B) The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.

(g) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable feepayer shall not relieve the other feepayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of the fee or penalties or total fees and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for a least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the feepayer.

(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus,

business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Chapter 8 of Article 2 (commencing with Section 50156). No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.

(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned in the state prison, or both, together with the costs of investigation and prosecution:

(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.

(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the feepayer or other person liable in respect of the fee.

(k) For purposes of this section, “person” means the feepayer, any member of the feepayer’s family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.

SEC. 23. Section 13387 of the Water Code is amended to read:

13387. (a) Any person who knowingly or negligently does any of the following is subject to criminal penalties as provided in subdivisions (b), (c), and (d):

(1) Violates Section 13375 or 13376.

(2) Violates any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

(3) Violates any order or prohibition issued pursuant to Section 13243 or 13301, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(4) Violates any requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act (33 U.S.C. Sec. 1311, 1312, 1316, 1317, 1318, 1328, 1341, or 1345), as amended.

(5) Introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substances that the person knew or reasonably should have known could cause personal injury or property damage.

(6) Introduces any pollutant or hazardous substance into a sewer system or into a publicly owned treatment works, except in accordance with any applicable pretreatment requirements, which causes the treatment works to violate waste discharge requirements.

(b) Any person who negligently commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000), nor more than twenty-five thousand dollars (\$25,000), for each day in which the violation occurs, by imprisonment for not more than one year in a county jail, or by both that fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, subdivision (c), or subdivision (d), punishment shall be by a fine of not more than fifty thousand dollars (\$50,000) for each day in which the violation occurs, by imprisonment in the state prison for 16, 20, or 24 months, or by both that fine and imprisonment.

(c) Any person who knowingly commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000), nor more

than fifty thousand dollars (\$50,000), for each day in which the violation occurs, by imprisonment in the state prison, or by both that fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision or subdivision (d), punishment shall be by a fine of not more than one hundred thousand dollars (\$100,000) for each day in which the violation occurs, by imprisonment in the state prison for two, four, or six years, or by both that fine and imprisonment.

(d) (1) Any person who knowingly commits any of the violations set forth in subdivision (a), and who knows at the time that the person thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be punished by a fine of not more than two hundred fifty thousand dollars (\$250,000), imprisonment in the state prison for 5, 10, or 15 years, or by both that fine and imprisonment. A person that is an organization shall, upon conviction under this subdivision, be subject to a fine of not more than one million dollars (\$1,000,000). If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, the punishment shall be by a fine of not more than five hundred thousand dollars (\$500,000), by imprisonment in the state prison for 10, 20, or 30 years, or by both that fine and imprisonment. A person that is an organization shall, upon conviction for a violation committed after a first conviction of the person under this subdivision, be subject to a fine of not more than two million dollars (\$2,000,000). Any fines imposed pursuant to this subdivision shall be in addition to any fines imposed pursuant to subdivision (c).

(2) In determining whether a defendant who is an individual knew that the defendant's conduct placed another person in imminent danger of death or serious bodily injury, the defendant is responsible only for actual awareness or actual belief that the defendant possessed, and knowledge possessed by a person other than the defendant, but not by the defendant personally, cannot be attributed to the defendant.

(e) Any person who knowingly makes any false statement, representation, or certification in any record, report, plan, notice to comply, or other document filed with a regional board or the state board, or who knowingly falsifies, tampers with, or renders

inaccurate any monitoring device or method required under this division shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000), by imprisonment in the state prison for 16, 20, or 24 months, or by both that fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, punishment shall be by a fine of not more than twenty-five thousand dollars (\$25,000) per day of violation, by imprisonment in the state prison for two, three, or four years, or by both that fine and imprisonment.

(f) For purposes of this section, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(g) For purposes of this section, “organization,” “serious bodily injury,” “person,” and “hazardous substance” shall have the same meaning as in Section 309(c) of the Clean Water Act (33 U.S.C. Sec. 1319(c)), as amended.

(h) (1) Subject to paragraph (2), funds collected pursuant to this section shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(2) (A) Notwithstanding any other provision of law, fines collected for a violation of a water quality certification in accordance with paragraph (2) of subdivision (a) or for a violation of Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341) in accordance with paragraph (4) of subdivision (a) shall be deposited in the Water Discharge Permit Fund and separately accounted for in that fund.

(B) The funds described in subparagraph (A) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state, or for the purposes authorized in Section 13443.

Approved _____, 2006

Governor